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10/679,432	10/07/2003	Diya B. Obeid	4404-4001US1	3474
27123	7590	06/06/2008	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101				OUELLETTE, JONATHAN P
ART UNIT		PAPER NUMBER		
3629				
NOTIFICATION DATE			DELIVERY MODE	
06/06/2008			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/679,432	OBEID, DIYA B.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jonathan Ouellette	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 October 2003.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-284 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-284 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20040525, 20050722.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed 5/25/2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claims 85-109 and 225-252 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 85-109 and 225-252 are attempting to patent computer data.**

4. First, the claimed data is clearly not a "process" under § 101 because it is not a series of steps. The other three § 101 classes of machine, compositions of matter and manufactures "relate to structural entities and can be grouped as 'product' claims in order to contrast them with process claims." 1 D. Chisum, Patents § 1.02 (1994). The three product classes have traditionally required physical structure or material (such as: "to be used on a computer").

5. "The term machine includes every mechanical device or combination of mechanical device or combination of mechanical powers and devices to perform some function and produce a certain effect or result." *Corning v. Burden*, 56 U.S. (15 How.) 252, 267 (1854). A modern definition of machine would no doubt include electronic devices which perform functions. Indeed, devices such as flip-flops and computers are referred to in computer science as sequential machines. The claimed data has no physical structure, does not *itself* perform any useful, concrete and tangible result and, thus, does not fit within the definition of a machine.

6. A "composition of matter" "covers all compositions of two or more substances and includes all composite articles, whether they be results of chemical union, or of mechanical mixture, or whether they be gases, fluids, powders or solids." *Shell Development Co. v. Watson*, 149 F. Supp. 279, 280, 113 USPQ 265, 266 (D.D.C. 1957), aff'd, 252 F.2d 861, 116 USPQ 428 (D.C. Cir. 1958). The claimed data is not matter, but a form of energy, and therefore is not a composition of matter.

7. The Supreme Court has read the term "manufacture" in accordance with its dictionary definition to mean "the production of articles for use from raw or prepared materials by giving to these materials new forms, qualities, properties, or combinations, whether by hand-labor or by machinery." *Diamond v. Chakrabarty*, 447 U.S. 303, 308, 206 USPQ 193, 196-97 (1980) (quoting *American Fruit Growers, Inc. v. Brogdex Co.*, 283 U.S. 1, 11, 8 USPQ 131, 133 (1931), which, in turn, quotes the Century Dictionary). Other courts have applied similar definitions. See *American Disappearing Bed Co. v. Arnaelsteen*, 182 F. 324, 325 (9th Cir. 1910), cert. denied, 220 U.S. 622 (1911). These definitions require physical substance, which the claimed data does not have. Congress can be presumed to be aware of an administrative or judicial interpretation of

a statute and to adopt that interpretation when it re-enacts a statute without change. *Lorillard v. Pons*, 434 U.S. 575, 580 (1978). Thus, Congress must be presumed to have been aware of the interpretation of manufacture in *American Fruit Growers* when it passed the 1952 Patent Act.

8. A manufacture is also defined as the residual class of a product. 1 Chisum, § 1.02[3] (citing W. Robinson, *The Law of Patents for Useful Inventions* 270 (1890)). A product is a tangible physical article or object, some form of matter, which data is not. That the other two product classes, machine and composition of matter, require physical matter is evidence that a manufacture was also intended to require physical matter. Data does not fall within either of the two definitions of manufacture. Thus, data does not fall within one of the four statutory classes of § 101.

#### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. **Claims 1-39, 43-81, 85-106, 110-131, 135-176, 180-221, 225-249, 253-277, and 281-284 are rejected under 35 U.S.C. 102(e) as being anticipated by Bryce et al. (US 2002/0143573 A1).**

11. As per **independent Claims 1, 43, 85, 110, 135, 180, 225, 253, and 281**, Bryce discloses a system (method, computer programmed product), for identifying a matching resume (Abstract, Para 0013, candidate application equivalent to resume) for a job description, comprising: a memory device; and a processor disposed in communication with the memory device, the processor configured to: receive the job description that includes at least one job requirement, each said at least one job requirement comprising a required skill or experience-related phrase and a required term of experience for the required skill or experience-related phrase (Para 0032-0038, receive required skill information); store the job description; *associate, for each said at least one job requirement, the required skill or experience related phrase with at least one implying skill or experience-related phrase; store at least one searchable phrase for each said at least one job requirement, one of said at least one searchable phrase including the required skill or experience-related phrase, and said at least one searchable phrase including said at least one implying skill or experience-related phrase* (Para 0032-0038); receive at least one resume (Para 0013, job seeker application), each said at least one resume including at least one skill or experience-related phrase, said at least one skill or experience-related phrase including the required skill or experience-related phrase for at least one of said at least one job requirement; store each said at least one resume (Para 0032-0038); compute, for each said at least one resume, a term of experience for the required skill or experience-related phrase for each said at least one job requirement (Para 0038, 0046, experience calculated); and determine whether each said at least one resume is the matching resume that satisfies the job description (Para 0032-0046, criteria matching application).

12. As per Claims 2, 44, 86, 111, 136, 181, 226, and 254, Bryce discloses wherein the storing of the job description is to a database (Para 0032-0046).
13. As per Claims 3, 45, 87, 112, 137, 182, 227, and 255, Bryce discloses wherein the storing of each said at least one resume is to a database (Para 0032-0046).
14. As per Claims 4, 46, 88, 113, 138, 183, 228, and 256, Bryce discloses wherein the required term of experience is a minimum required term of experience (Para 0032-0046).
15. As per Claims 5, 47, 140, and 185, Bryce discloses wherein each said at least one resume comprises a document in an electronic format (Para 0032-0046).
16. As per Claims 6, 48, 141, and 186, Bryce discloses wherein the electronic format includes a standard digital document format (Para 0032-0046).
17. As per Claims 7, 49, 142, and 187, Bryce discloses wherein the job description comprises a document in an electronic format (Para 0032-0046).
18. As per Claims 8, 50, 143, and 188, Bryce discloses wherein the electronic format includes a standard digital document format (Para 0032-0046).
19. As per Claims 9, 51, 144, and 189, Bryce discloses wherein each said at least one resume comprises a curriculum vitae (Para 0032-0046).
20. As per Claims 10, 52, 89, 114, 145, 190, 230, and 258, Bryce discloses wherein each said at least one resume includes at least one word, and wherein said at least one skill or experience-related phrase comprises said at least one word (job seeker application, Para 0013).
21. As per Claims 11, 53, 90, 115, 146, 191, 231, and 259, Bryce discloses wherein, when each said at least one resume includes at least two words, said at least one skill or experience-

related phrase further comprises at least one word group, each said at least one word group including consecutive words from the resume (job seeker application, Para 0013).

22. As per Claims 12, 54, 116, 147, and 192, Bryce discloses wherein each said at least one skill or experience-related phrase comprises *a skill*, a job location, a title, a department, a responsibility, a duty, an action, an achievement, an accomplishment, a relationship, a product, a consultation, a group, a team, a field, a space, an area of endeavor, a company, an industry, a technical package, or a tool (Para 0032-0046).

23. As per Claims 13, 55, 91, 149, 194, 233, and 261, Bryce discloses wherein said at least one skill or experience-related phrase includes at least one attribute for a candidate (Para 0032-0046).

24. As per Claims 14, 56, 150, and 195, Bryce discloses wherein said at least one attribute includes a name, a residence or business address, a telephone number, an electronic mail address, education data, past employer data, or salary data (Para 0032-0046, job seeker profile information – type of information is non-function descriptive material, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

25. As per Claims 15, 57, 151, and 196, Bryce discloses wherein the telephone number includes a home number, a work number, a facsimile number, or a cellular number (Para 0032-0046, job seeker profile information – type of information is non-function descriptive material, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

26. As per Claims 16, 58, 152, and 197, Bryce discloses wherein the education data includes a degree, a major, a year, or a school name (Para 0032-0046, job seeker profile information – type of information is non-function descriptive material, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).

27. As per Claims 17, 59, 153, and 198, Bryce discloses wherein the past employer data includes an employer name, a last title, and a period of employment (Para 0032-0046, employer profile information – type of information is non-function descriptive material, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).

28. As per Claims 18, 60, 154, and 199, Bryce discloses wherein the salary data includes a current salary and an expected salary (Para 0032-0046, job seeker profile information – type of information is non-function descriptive material, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).

29. As per Claims 19, 61, 92, 117, 155, 200, 234, and 262, Bryce discloses wherein each said at least one resume further includes at least one contextual use, each said at least one contextual use including an experience range, and wherein to compute the term of experience, the processor is further configured to: associate the required skill or experience-related phrase for each said at least one job requirement with one of said at least one contextual use, wherein the term of experience for the required skill or experience-related phrase for each said at least one job requirement is derived from the experience range of the associated one of said at least one contextual use (Para 0038, 0046, experience calculated).

30. As per Claims 20, 62, 93, 118, 157, 202, 236, and 264, Bryce discloses wherein the processor is further configured to: when the experience range is zero: set the term of experience to zero; and when the experience range is greater than zero: determine a start time for the experience range; determine an end time for the experience range; compute a time difference between the start time and the end time; and set the term of experience to the time difference (Para 0038, 0046, experience calculated).

31. As per Claims 21, 63, 158, and 203, Bryce discloses wherein the term of experience is a number of seconds, minutes, hours, days, weeks, months, years, or decades (Para 0032-0046, experience calculated – format would be non-function descriptive material, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

32. As per Claims 22, 64, 159, and 204, Bryce discloses wherein the term of experience is an integer (Para 0032-0046, experience calculated – format would be non-function descriptive material, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

33. As per Claims 23, 65, 160, and 205, Bryce discloses wherein the term of experience is not an integer (Para 0032-0046, experience calculated – format would be non-function descriptive material, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

34. As per Claims 24, 66, 94, 119, 161, 206, 237, and 265, Bryce discloses wherein to set the term of experience to the time difference, the processor is further configured to: compute a repeated entry time difference for the required skill or experience-related phrase for each said at

least one job requirement that is a repeated entry and is associated with an other experience range; and add to the time difference each repeated entry time difference, wherein the other experience range includes an other start time and an other end time, wherein the start time precedes the end time, wherein the other start time precedes the other end time, and wherein the other end time either precedes or is equal to the start time, or the other start time either succeeds or is equal to the end time (Para 0038, 0046, Criteria matching application calculates experience).

35. As per Claims 25, 67, 162, and 207, Bryce discloses wherein the required term of experience is a number of seconds, minutes, hours, days, weeks, months, years, or decades (Para 0032-0046, experience calculated – format would be non-function descriptive material, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

36. As per Claims 26, 68, 163, and 208, Bryce discloses wherein the required term of experience is an integer (Para 0032-0046, experience calculated – format would be non-function descriptive material, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

37. As per Claims 27, 69, 164, and 209, Bryce discloses wherein the required term of experience is not an integer (Para 0032-0046, experience calculated – format would be non-function descriptive material, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

38. As per Claims 28, 70, 95, 120, 165, 210, 238, and 266, Bryce discloses wherein the matching resume that satisfies the job description includes the required skill or experience-

related phrase for each said at least one job requirement, and the term of experience for the required skill or experience-related phrase in the resume is greater than or equal to the required term of experience (Para 0032-0046).

39. As per Claims 29, 71, 96, 121, 166, 211, 239, and 267, Bryce discloses wherein at least one of said at least one job requirement includes at least one alternative job requirement, each said at least one alternative job requirement comprising an alternative required skill or experience-related phrase and an alternative required term of experience, and wherein the matching resume satisfies said at least one of said at least one job requirement when the resume includes either: the required skill or experience-related phrase for said at least one of said at least one job requirement, and the term of experience for the required skill or experience-related phrase in the resume is greater than or equal to the required term of experience; or the alternative required skill or experience-related phrase for any said at least one alternative job requirement, and the term of experience for the alternative required skill or experience-related phrase in the resume is greater than or equal to the alternative required term of experience (Para 0032-0046).

40. As per Claims 30, 72, 97, 122, 167, 212, 240, and 268, Bryce discloses wherein the matching resume satisfies the job description when the resume includes the required skill or experience-related phrase for any said at least one job requirement, and the term of experience for the required skill or experience-related phrase in the resume is greater than or equal to the required term of experience (Para 0032-0046).

41. As per Claims 31, 73, 98, 123, 168, 213, 241, and 269, Bryce discloses wherein each said at least one job requirement further comprises a required time range for the required skill or experience-related phrase, and wherein the matching resume satisfies the job description when

the experience range of the skill or experience-related phrase overlaps with the required time range (Para 0032-0046).

42. As per Claims 32, 74, 99, 124, 169, 214, 242, and 270, Bryce discloses wherein the processor is further configured to: display the matching resume on a display screen (Para 0032-0046).

43. As per Claims 33, 75, 100, 125, 170, 215, 243, and 271, Bryce discloses wherein the display includes a first portion, a second portion, and a third portion, the first portion showing a list of said at least one resume, the second portion showing at least one attribute extracted from the matching resume, the third portion showing the matching resume (Para 0032-0046).

44. As per Claims 34, 76, 101, 126, 171, 216, 244, and 272, Bryce discloses wherein the display includes a first portion, and a second portion, the first portion showing at least one attribute extracted from the matching resume, the second portion showing the matching resume (Para 0032-0046).

45. As per Claims 35, 77, 102, 127, 172, 217, 245, 273, and 284, Bryce discloses wherein the display includes a first portion, and a second portion, the first portion showing a list of said at least one resume, the second portion showing the matching resume (Para 0032-0046).

46. As per Claims 36, 78, 103, 128, 173, 218, 246, 274, and 282, Bryce discloses wherein the matching resume includes at least one occurrence of the required skill or experience-related phrase for each said at least one job requirement, and wherein to display the matching resume, the processor is further configured to: mark each said at least one occurrence of the required skill or experience-related phrase for each said at least one job requirement (Para 0032-0046).

47. As per Claims 37, 79, 104, 129, 174, 219, 247, 275, and 283, Bryce discloses wherein the marking includes highlighting each said at least one occurrence of the required skill or experience-related phrase for each said at least one job requirement, or displaying in reverse video each said at least one occurrence of the required skill or experience-related phrase for each said at least one job requirement (Para 0032-0046).

48. As per Claims 38, 80, 105, 130, 175, 220, 248, and 276, Bryce discloses wherein the job description further includes a required level of education or a required field of specialization (Para 0032-0046).

49. As per Claims 39, 81, 106, 131, 176, 221, 249, and 277, Bryce discloses wherein the matching resume that satisfies the job description includes the required level of education, the required field of specialization, or a phrase implying the required level of education or the required field of specialization (Para 0032-0046).

50. As per Claims 139, 184, 229, and 257, Bryce discloses wherein at least one of each said at least one implying skill or experience-related phrase comprises a narrower skill or experience-related phrase (Para 0032-0046).

51. As per Claims 148, 193, 232, and 260, Bryce discloses wherein to associate the required skill or experience-related phrase with said at least one implying skill or experience-related phrase, the processor is further configured to: retrieve each said at least one implying skill or experience-related phrase from a phrase mapping table that relates each said at least one skill or experience-related phrase to each said at least one implying skill or experience-related phrase (Para 0032-0046).

52. As per Claims 156, 201, 235, and 263, Bryce discloses wherein the contextual use for the required skill or experience-related phrase for each said at least one job requirement includes the contextual use of the associated said at least one implying skill or experience-related phrase (Para 0032-0046).

***Claim Rejections - 35 USC § 103***

53. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

a. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

54. **Claims 40-42, 82-84, 107-109, 132-134, 177-179, 222-224, 250-252, and 278-280 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryce in view of Thomas (US 2002/0055870 A1).**

55. As per Claims 40, 82, 107, 132, 177, 222, 250, and 278, Bryce fails to expressly disclose wherein the job description further includes a required salary range comprising a minimum required salary and a maximum required salary.

56. However, Bryce does disclose obtaining job seeker profile information and matching the profile information to employer needs (Para 0032-0046).

57. Furthermore, Thomas discloses matching potential candidates with employers based on salary expectations for both the candidate and the employer (Para 0614).

58. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the incorporation of salary expectations when matching candidates/job seekers/resumes with employers as disclosed by Thomas in the system disclosed by Bryce (See KSR [127 S Ct. at 1739] “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”).

59. As per Claims 41, 83, 108, 133, 178, 223, 251, and 279, Bryce and Thomas disclose wherein the matching resume that satisfies the job description includes an expected salary that falls within the required salary range (Thomas: Para 0614, see rejection of Claim 40).

60. As per Claims 42, 84, 109, 134, 179, 224, 252, and 280, Bryce and Thomas disclose wherein the expected salary falls within the required salary range when: the expected salary is greater than or equal to the minimum required salary, and the expected salary is less than or equal to the maximum required salary (Thomas: Para 0614, see rejection of Claim 40).

### ***Conclusion***

61. The prior art made of record and not relied upon is considered pertinent to applicant’s disclosure.

62. Additional Literature has been referenced on the attached PTO-892 form, and the Examiner suggests the applicant review these documents before submitting any amendments.

63. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.

64. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.

65. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

June 4, 2008

/Jonathan Ouellette/

Primary Examiner, Art Unit 3629